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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ALASKA

VIRGINIA B. ALECK,

Plaintiff,

v.

UNITED STATES OF AMERICA, DR.  
BENJAMIN A. GARNETT, AND ALASKA  
NATIVE MEDICAL CENTER

Defendants.

Case No. \_\_\_\_\_

**COMPLAINT**

Plaintiff Virginia B. Aleck, through her counsel, Farnsworth & Vance, and for her Complaint against the United States of America, Dr. Benjamin A. Garnett and Alaska Native Medical Center alleges as follows:

**STATEMENT OF JURISDICTION**

1. Plaintiff Virginia B. Aleck ("Aleck") is a resident of the State of Alaska residing in the Lake & Peninsula Burrough.

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2. Defendant Benjamin A. Garnett, MD (“Garnett”) upon information and belief is a resident of the State of Alaska.

3. The acts or omissions upon which this case is based occurred in Anchorage, Alaska.

4. This suit is brought pursuant to the Federal Tort claims Act, 28 U.S.C. § 2674, and this Court has exclusive jurisdiction over this action, pursuant to 28 U.S.C. § 1346(b).

Venue in this District is authorized by 28 U.S.C. § 1402(b).

5. Notice of this claim as required by 28 U.S.C. § 2675 was received by the United States Department of Health & Human Services on April 3, 2018.

6. Defendant has rendered a final administrative decision, and not more than six months has elapsed.

7. The Alaska Native Medical Center (“ANMC”) is operated by the Alaska Native Tribal Health Consortium (“ANTHC”) in Anchorage, Alaska. ANMC is a compacting entity of the Indian Health Service (“IHS”). Health care providers at ANMC are employees of the United States of for purposes of liability under the FTCA if they are employees of ANMC, acting within the scope of their employment, and carrying out the compact with the HIS at the time of the act which gives rise to the Complaint.

8. At times pertinent to the Complaint, the employees of ANMC who are alleged to have acted negligently and in reckless disregard of Virginia Aleck’s health and safety were acting within the scope of their employment in carrying out ANMC’s compact with the IHS and entities

9. Virginia Aleck is an adult.

10. Virginia Alec is an enrolled tribal member and was entitled to receive medical care from the IHS and entities that compact with the IHS, including ANMC and ANTHC.

#### COMPLAINT

## **STATEMENT OF FACTS**

11. In April of 2008 suffering from stress incontinence, plaintiff had sling surgery which included the placement of surgical mesh. The surgery was located at the Alaska Native Medical Center in Anchorage, Alaska.

12. On March 5, 2018, Virginia Aleck presented to ANMC urology department on a referral from Dr. Garnett in the GYN department; for an evaluation of recurrent urinary tract infections, urinary incontinence and urinary frequency

13. On April 3, 2018, plaintiff underwent surgery at the Alaska Native Medical Center for surgical correction of post hysterectomy vaginal prolapse. Virginia continued to have a worsening lump in her vagina, pelvic pain, vaginal irritation, leaking "all the time." The mid urethral sling mesh had eroded into the vagina and she wanted it removed.

14. On April 6, 2018 admitted to ANMC with complaints of lower abdomen pain rating 7 out of 10, nausea and fatigue and treated for a likely urinary tract infection.

15. On May 2, 2018 Virginia Aleck presented to the Bristol Bay Area Health clinic for suspected complications from the April 3, 2018 surgery. These complications included lower abdominal pain, nausea, and constipation. Plaintiff was also concerned because she was noticing bowel excrement in her vaginal area.

16. On May 14, 2018 after a CT scan done on the same date, Dr. Garnett discussed with Virginia Aleck and her family that there was a surgical complication involving trapped bowel in the suspension sutures or passing a stitch through the bowel as potential etiologies. It was discussed that surgical correction would be necessary.

17. On May 15, 2018 plaintiff was admitted to Alaska Native Medical Center and

## **COMPLAINT**

diagnosed with a colovaginal fistula.

18. On May 16, 2018 at Alaska Native Medical Center, plaintiff underwent a rigid sigmoidoscopy and laparoscopic repair of the colovaginal fistula.

Beginning approximately June 12, 2018 plaintiff started complaining of feeling sick, weak and tired. She was not able to ambulate to the Bristol Bay Area Health Clinic and instead needed to receive home health care provided by the clinic.

19. Virginia Aleck continues to suffer from fatigue, incontinence, pain other continuing surgery related complaints.

#### **COUNT I -DR. BENJAMIN A. GARNETT AND ALASKA NATIVE MEDICAL CENTER**

20. Medical personnel employed by ANMC, including doctors, nurses ANPs, PAs and other care providers breached the applicable standards of care and were negligent in providing medical care to Virginia Aleck.

21. The negligent misconduct of these health care providers includes, but is not limited to, the failure to timely diagnose and treat Plaintiff, and the failure to coordinate and manage her care, which proximately caused her colovaginal fistula and multiple hospitalizations, inadequate discharge planning and instruction, the failure to employ a differential diagnosis the failure to provide continuous, coordinated care through an assigned physician responsible for her diagnosis, treatment, care and return to wellness.

22. As a direct and proximate result of the negligent misconduct of the care providers described above, Virginia Aleck has suffered past and future damages, including, but not limited to:

- a. Personal injuries, including a colovaginal fistula that fecal matter would enter her vagina from her bowels;

#### **COMPLAINT**

- b. Physical pain, fatigue, incontinence and discomfort;
- c. Emotional suffering;
- d. Loss of enjoyment of life;
- e. Other economic and noneconomic losses, all in excess of \$200,000, the exact amount to be determined at trial.

WHEREFORE, Plaintiff requests a trial by jury to determine an award of compensatory damages in excess of \$200,000.00, attorney's fees and costs for having to file this suit and any other relief the finder of facts deems warranted.

DATED this 18th day of June, 2021 at Anchorage, Alaska.

**Farnsworth & Vance**  
Attorneys for Plaintiff

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Jeffrey H. Vance  
Alaska Bar No. 0111080

/S/

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Ty A. Farnsworth  
Alaska Bar No. 1511095

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